

THE HON'BLE SRI JUSTICE C.V. RAMULU

Monday, 13th November, 2006

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W.P.No.23246 of 2006

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Between:

K. Ramu Naidu

... Petitioner

and

The District Collector,
Civil Supplies, Visakhapatnam,
Visakhapatnam District & others

... Respondents

THE HON'BLE SRI JUSTICE C.V. RAMULU

W.P.No.23246 of 2006

ORAL ORDER:

This Writ Petition is filed seeking a Mandamus to declare the Order passed by the 3rd respondent-Revenue Divisional Officer, Visakhapatnam in Proceedings D.Dis.No.1468/2004/C, dated 27-1-2005 as confirmed by the 2nd respondent-Joint Collector, Visakhapatnam in the Order in A.C.No.13/2005CSR7, dated 27-4-2005 and further confirmed by the 1st respondent-District Collector in the Endorsement in R.P.No.2/2006CSR7, dated 10-10-2006.

It appears that the petitioner was the fair price shop dealer of Shop No.52, Laxmipuram village, Bhimunipatnam Mandal, Visakhapatnam District. While so, his authorization was cancelled by the 3rd respondent on 27-1-2005 after conducting a detailed enquiry into certain charges levelled against him and further holding that the Joint Collector had also ordered for confiscation of 100% of seized stock in favour of the Government vide his Proceedings in CC No.55/2003 CSR 5, dated 26-2-2004. Aggrieved by the same, the petitioner carried the matter in appeal before the 2nd respondent. However, the 2nd respondent confirmed the orders of the 3rd respondent, through his Proceedings dated 27-4-2005. Assailing the said Order, the petitioner further carried the matter in revision before the 1st respondent-District Collector. However, the 1st respondent rejected the appeal on 10-10-2006 on the ground that

there was a delay of 467 days in filing the revision and the same cannot be condoned without any genuine reason; as such, the revision cannot be entertained. Challenging the same, the present Writ Petition is filed.

It is the case of the petitioner that apart from the disciplinary proceedings taken up as per the Control Orders, the proceedings under Section 6-A of the Essential Commodities Act, 1955 (for short 'the Act') were also initiated against the petitioner and the said proceedings ultimately ended in acquittal on 18-10-2005 in Criminal Appeal No.13 of 2005 on the file of the learned District Judge, Visakhapatnam. The said appeal was allowed stating that confiscation cannot be done in whimsical manner without there being any tangible evidence. Basing on mere surmises and conjectures confiscation cannot be ordered and huge loss cannot be visited against the petitioner; as such, the impugned Order is not sustainable and the same was accordingly set aside. Learned counsel for the petitioner states that the Order passed under Section 6-C of the Act has attained finality and in view of the acquittal of the petitioner in the said criminal appeal, he is entitled for restoration of his authorization as per the proviso to Clause 5(4) of the Andhra Pradesh State Public Distribution System Control Order, 2001, which contemplates "provided that such conviction is set aside in any appeal or revision, the appointing authority may, on application in Form-I made by the person whose authorization has been cancelled, reissue the authorization to such person".

In view of the above, without expressing any opinion on merits, the petitioner is directed to file an application in Form I before the 3rd respondent seeking restoration of his authorization in view of the Judgment in Criminal Appeal No.13 of 2005 on the file of the District

Judge, Visakhapatnam, dated 18-10-2005 and the same shall be entertained and considered by the 3rd respondent, on its own merits, keeping in view the provisions of Clause 5(4) of the said Order. Till such time, no permanent arrangement shall be made against the fair price shop in question.

With the above directions, the Writ Petition is disposed of. No order as to costs.

13-11-2006

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